



**PERSONNEL SERVICES CONTRACT  
FOR THE  
VILLAGE OF WESTMONT**

**May 1, 2020 – April 30, 2022**

This Agreement made and entered into this 1st day of May 2020, at 0600 HRS ("Effective Date") by and between Metro Paramedic Services, Inc., an Illinois Corporation, ("Contractor"), and the Village of Westmont ( "Village"), hereinafter collectively referred to as "Parties" or singularly as "Party".

**WHEREAS**, the Contractor is in the business of providing emergency medical service and firefighter service personnel who possess a high degree of professional skill and the ability and fitness of Contractor's personnel play an important part in providing service to the Village; and

**WHEREAS**, the Client provides fire protection and emergency medical services for residents of the Village, two fire protection districts, and a special service area; and

**WHEREAS**, the Village wishes to out-source a portion of its fire-fighting and/or emergency medical services on an independent contractor basis in order to obtain the Contractor's services for fire protection and emergency medical services, and the Contractor wishes to provide such services on an independent contractor basis to the Village (the "Assignment"); and

**WHEREAS**, as used in the Agreement, the terms "personnel" and "employees" mean the Contractor's employees placed with the Village pursuant to this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants and promises hereinafter set forth, the Parties agree as follows:

#### **ARTICLE 1: Incorporation.**

The recitals set forth above are hereby incorporated by reference into this Agreement and made a part hereof as if set forth in their entirety.

#### **ARTICLE 2: Term.**

The term of this Agreement shall be for a period of two (2) years commencing May1, 2020 and continuing through April 30, 2022 ("Initial Term") unless cancelled earlier by written notice by either Party or terminated by written notice of a breach of this Agreement or operation of law, in which case this Agreement will terminate immediately on the date of the written notice.

The Initial Term of this Agreement shall optionally renew for three (3) subsequent one (1) year terms ("Subsequent Terms") unless earlier terminated by written notice by either Party by providing ninety (90) day written notice before the end of either the Initial Term or any Subsequent Term or written notice of a breach by either Party or by operation of law or unless a new agreement is executed by the

Parties.

### **ARTICLE 3: Cancellation.**

Either Party to this Agreement may cancel this Agreement without cause upon providing the other Party ninety (90) calendar days' written notice prior to the expiration of the Initial Term or any Subsequent Term and this Agreement and the Parties' obligations thereunder shall end at the end of such ninety (90) calendar days' notice period.

If one Party shall commit a material breach of this Agreement, the other Party shall provide a detailed written statement of the claimed material breach. If the alleged breaching Party shall fail to cure such breach, if curable, within thirty (30) days, (unless residents' safety forms the basis, in whole or in part, of the material breach), in which case, the breach must be cured within forty-eight (48) hours of notice of the breach), the Agreement shall terminate at the expiration of the thirty (30) day period unless the Parties agree that additional time is necessary to ensure an orderly transfer of fire-fighting or emergency medical services to the ensure the safety of the citizens of the Village; however, in no event shall such additional time extend for more than sixty (60) calendar days without agreement of both Parties. The acceptance of such cure shall not be unreasonably withheld. Where the cure has not been accepted, the Contractor shall have an opportunity to be heard by the Village Manager before any decision of termination or cancellation is made.

Notwithstanding anything to the contrary in this Agreement, should any early cancellation or termination give rise to liability to either Party under the federal or state laws known as WARN Acts or similar laws, such cancellation or termination shall be delayed so the Parties can provide appropriate notices or take other steps to avoid liability under such laws as allocated under this Agreement or by operation of law.

The Contractor and its personnel will be expected to perform to the satisfaction of the Village, and that Contractor shall be considered in breach of the agreement at any time the Village is not satisfied with their performance. The Village will be able to terminate the agreement upon sixty (60) days written notice to Contractor if the Village, in its sole discretion, is not satisfied with the Contractor's performance. Failure to supply the Paramedics as required will be a breach of the agreement by the Contractor and will subject the Contractor to immediate termination of the agreement at the Village's discretion.

### **ARTICLE 4: Equipment Provided.**

The Village shall provide all ambulance vehicles, medical equipment, radio communication devices, electronic patient care reporting devices, firefighting equipment, fire apparatus, and any and all other equipment needed to provide firefighting and emergency medical services. In the event that the Contractor's

personnel are called upon to operate equipment or apparatus owned by the Village, such personnel shall operate it in a safe, competent and careful manner and in accordance with the Village's operating policies for such equipment or apparatus.

The Village, shall provide personal protective equipment (bunker gear) and uniforms meeting the Village's specifications and design to all contracted Firefighter/Paramedics consistent with their assignments.

The Contractor will make available at the request of the Village a reserve ambulance for use by the Village in the event of an emergency breakdown, provided that the Contractor has a unit available for use, and that the use of the ambulance does not exceed thirty (30) days.

#### **ARTICLE 5: Personnel Provided.**

The Contractor shall utilize its best efforts to provide personnel identified below with the required skills, experience, licenses, bonds, and other qualifications for the Assignment, including but not limited to recruiting, interviewing, testing, performing background checks, selecting, hiring, disciplining, controlling, directing and terminating the personnel that it furnishes pursuant to this Agreement. However, in no event does the Contractor guarantee the qualifications or fitness of any personnel provided by the Contractor for any particular purpose and in fact disclaims such guarantee, liability, or warranty to the fullest extent permitted by law.

- a. The Contractor shall provide twelve (12) full-time Firefighter/Paramedic (FF/PM's) to the Village. Four (4) FF/PM's shall be assigned to the Village daily to work 24-hour shifts. If the employment of any assigned Firefighter/Paramedic is terminated by the Contractor, immediate notice shall be provided to the Fire Chief or designee.
- b. The Village shall have the right to direct Contractor to no longer assign any Firefighter/Paramedic to the Village, when the Village feels such action is in its best interest and does not violate Article 14. The Contractor shall replace such Firefighter/Paramedic as soon as is practicable with another fully qualified employee and shall provide a permanent replacement within 30 days. All temporary and permanent replacement Firefighter/Paramedics shall be selected in accordance with this Article 5 and Article 6.
- c. The Contractor shall designate one of the twelve (12) Firefighter Paramedics Contractor as Contract Coordinator and another one of the twelve as Assistant Contract Coordinator and they shall work as two of the 12 contract paramedics on shift. The Contract Coordinator

and Assistant Contract Coordinator shall at all times be licensed/certified Paramedics, AHA CPR Instructors.

- d. The Assistant Contract Coordinator will act as the Contract Coordinator in the event the Contract Coordinator is unavailable (ie. vacation, leave of absence, illness etc.). The Assistant Contract Coordinator can be assigned regular duties at the discretion of the Contract Coordinator.
- e. The Contract Coordinator shall be responsible for the scheduling of Paramedics and coordinating the activities of the Paramedics supplied by the Contractor as well as scheduling staff for Special Events as requested by the Village of Westmont and as set forth herein. The Contract Coordinator shall be responsible to manage the Contractor's payroll and personnel issues. The Contract Coordinator, Assistant Contract Coordinator and the Paramedics will also maintain their scheduled shifts in the Village's scheduling system (PACE).
- f. The Contract Coordinator is responsible for quality control of the services provided by the Contractor and shall review all Paramedic reports for the purpose of ensuring reports are of high quality and meet all the requirements necessary to support the proper billing of the ambulance services pursuant to any governmental and insurance company standards. The Contract Coordinator is responsible for sending all applicable documentation to the Village's designated billing Contractor for ambulance billing.
- g. The Contract Coordinator shall assume other EMS roles and perform duties as assigned by the Fire Chief or his designee. The Contract Coordinator shall be a liaison between the Contractor and the Fire Department and its command staff. The Contract Coordinator shall attend all meetings as required by the Fire Chief, including the monthly Staff and Officers Meetings (2 hours each). Meetings and other activities required by the Fire Chief outside of normal 24 hours shifts may be billed to the Department as specified in Article 8 herein.
- h. The Contract Coordinator shall work closely with the fire department staff and keep the Fire Chief informed of occurrences which directly or indirectly may affect the fire department or the Village. The Contract Coordinator will be responsible for disseminating policies, procedures, directives and orders from the Fire Chief to the employees of the Contractor in addition to similar information from the Contractor to its employees.

- i. The Contract Coordinator shall assist the Department's Emergency Medical Service (EMS) Director and the Fire Chief in the operation of the EMS Program. The Contract Coordinator shall meet regularly with the EMS Director and the Fire Chief to develop and maintain continuity of the EMS Program.
- j. The Contract Coordinator and/or the Assistant Contract Coordinator will be designated as preceptors for students from the Good Samaritan Paramedic Program. This will be coordinated with the Department's EMS Director.
- k. The Contractor shall assign replacement personnel, to be chosen in the Contractor's discretion, to the Assignment in the event of illness, vacation, or any other event that causes the absence of regularly assigned personnel. The Contractor shall make the same best efforts to ensure that replacement personnel have the same necessary certifications and qualifications that the Contractor requires of its regularly assigned personnel.
- l. The Contractor shall use its best efforts to ensure that the personnel assigned to this Assignment under this Agreement shall have the necessary State of Illinois certification and be approved to function by the Illinois Department of Public Health and in the Village's designated EMS System and to keep such certifications in good standings at all times.
- m. The Contractor shall ensure that all personnel are certified by the Illinois Office of State Fire Marshal to the minimum level of Basic Operations Firefighter and to keep certifications in good standings at all times.
- n. All personnel assigned by the Contractor to the Assignment shall have successfully completed the physical agility requirements of Contractor and that may be specified by the Village.
- o. All personnel assigned by the Contractor to the Assignment shall possess a Class B non-CDL or a Class C drivers license or obtain such license within three (3) months of being assigned to the Assignment. Any exceptions shall be made only by Contractor obtaining written authorization from the Fire Chief to temporarily waive this requirement or make exceptions to this requirement.
- p. Prior to beginning work on the Assignment, the Contractor shall take reasonable measures to require that all assigned personnel shall attend the Village's three (3) twelve hour day shifts to complete Contractor's orientation program at the Village's fire department facility and at the Contractor's expense.

- q. Personnel assigned to the Assignment, at their own expense, shall be required to continue their professional education to meet the ongoing legal or EMS system requirements at times when personnel are not scheduled to work on the Assignment. Evidence of the maintenance and completion of all required continuing education, licenses and certifications shall be provided upon request by the Fire Chief or his designee.
- r. Personnel shall be qualified to drive and operate an ambulance and utilize fire department equipment (i.e. extrication tools, saws, hose loads...).
- s. Personnel shall not be excluded from or ineligible to participate in a "Federal Health Care Program" as defined in 42 U.S.C. Section 1320a-7b (f) (or any applicable successor statutory section) or in any other government payment program, including but not limited to the Illinois Medicaid Program. Personnel shall be enrolled in the Illinois Department of Healthcare and Family Services' Illinois Medicaid Program Advanced Cloud Technology (IMPACT) system and shall be screened by the Contractor against:
  - i) The OIG List of Excluded Individuals/Entities available at: <http://oig.hhs.gov/exclusions/exclusionslist.asp>.
  - ii) Any exclusion database maintained by the state agency that oversees the State Medicaid Program.
  - iii) The U.S. General Services Administration Excluded Parties List System. This list can be accessed at: <http://www.sam.gov>.
- t. Each Paramedic shall work on duty twenty-four (24) hours followed by forty-eight (48) hours off-duty. At no time shall any Paramedic be scheduled to work more than forty-eight (48) consecutive hours on duty, except in extreme circumstances and with the approval by the Fire Chief or designee. No less than four (4) Paramedics shall be on duty in Westmont at all times 7 days a week, 365 days a year. The 4 Paramedics on duty for each shift shall staff and operate two ALS equipped ambulances (2 Paramedics per ambulance). Shifts start and end at 0600 each day. Any deviation from this schedule must be approved by the Westmont Fire Chief or designee.
- u. Paramedics shall not make themselves absent from duty until properly relieved by another certified Paramedic meeting all the requirements of this agreement with the Village. In the event of the absence of any employee of contractor from his or her assigned shift,

contractor shall provide a suitably qualified replacement to fulfill the assigned duties of the regularly scheduled employee.

- v. Contractor employees assigned to Westmont Fire Department shall be on permanent assignment and shall not be assigned to any other customer of the contractor. Temporary replacements may be used for unplanned vacancies of Paramedics that are assigned to the Village. Temporary replacements shall not exceed five (5) days per calendar year. For the purpose of this paragraph, "unplanned vacancy" shall be defined as any absence other than illness, medical disability or vacation. In the extreme circumstances that the Fire Department needs to temporarily cover a contracted position, the contractor shall reimburse the Village for the time covered by Fire Department personnel (minimum 4 hours) at \$50/hour.
- w. Each of the Contractor's employees at the time the employee is assigned to work at the Village shall be:
  - 1. Licensed by the State of Illinois as a paramedic
  - 2. Successfully tested and approved to work in the Good Samaritan Hospital System
  - 3. Each Paramedic/Firefighter Certified as an OSFM Basic Operations Firefighter- BOF (formerly FF II)
  - 4. Successfully completed Hazardous Materials Awareness
  - 5. Continue to meet all Paramedic/BOF education requirements required by all applicable regulatory agencies and the Good Samaritan EMS System.
  - 6. All of Contractor's personnel assigned to Village must attend and participate in training sessions held by the Village's Fire Department during the hours that they are on duty and must meet any additional training, certification and fitness standards established by the Village.
- x. All Contractor employees assigned to the Village shall comply with all applicable rules, procedures, regulations and ordinances of all units of government and governmental agencies, including those of the Village and the rules and regulations of the applicable emergency medical and firefighting procedures under which the Village has been designated or elects to operate.
- y. Since Contractor employees are not employees of the Village they will not need to comply with the Village's Personnel Policy but instead must comply with the applicable personnel policy of Contractor. The Contractor will be required to certify that its personnel policy is similar in material respects to the Village's Personnel Policy.



- z. Contractor's personnel assigned to the contract will be required to respond to all requests for emergency medical services/fire emergency responses as directed by the Village in accordance with the Village's standard operating procedures. Contractor's personnel shall also provide assistance under any automatic aid and mutual aid agreement, which the Village has with neighboring jurisdictions and MABAS. Contractor's personnel will not be deployed beyond their 24 hour shift without the agreement of the Contractor.
- aa. Contractor's personnel will be required to complete all reports and documentation required by the Village, Good Samaritan Hospital or any other hospital or governmental unit. At no time shall any information from medical reports or medical records completed by Contractor employees be discussed or revealed to anyone other than responders involved in such call. The Contractor's employees shall not reveal any medical information about the responses to calls within the Village or any call responded to by a Village ambulance or release any medical records without the express consent and direction of the Village. All requests for medical records, reports or information about any patient shall be directed to the Village's EMS Director. At all times the Contractor's personnel will comply with HIPPA regulations. In addition, Contractor's personnel are prohibited from capturing data or photos pertaining to any calls for service for which they may respond, which may contain protected health information (PHI) or electronic protected health information (ePHI).
- bb. Contractor's personnel shall maintain the living quarters and those areas of the administrative portion of the fire station to which they have access, including the apparatus storage area. Contractor personnel shall be required to perform daily and weekly checks of equipment to ensure proper working order. Contractor's personnel are also responsible to maintain their station uniforms and bunker gear in accordance with department guidelines and regulations.

#### **ARTICLE 6: Selection of Personnel.**

In order to ensure the orderly and safe operation of fire protection and emergency medical services pursuant to this Agreement and consistent with all licensing and legal authority, the provision and selection of personnel shall be as follows:

- a. The Village's designated EMS system has quality requirements for emergency medical services personnel that must be met and applicable laws and regulations that all personnel performing services under this Agreement must meet. In determining whether

an applicant has met these quality requirements, the Contractor may consult with the Fire Chief and shall make available the resumes of any person who is being considered for assignment and the Fire Chief may request that the Contractor reject or remove any personnel that do not meet the legal and/or contractual qualifications of the job.

- b. If the employment of any of the Contractor's assigned employees is terminated with the Contractor, the Contractor shall immediately notify the Fire Chief and the Contractor shall immediately provide a suitable replacement.
- c. The Village may request the Contractor to no longer assign any given employee of the Contractor to the Village for any legal reason. Such request shall be made in writing, shall detail the reason(s) for the request, and comply with both Parties' goals and commitments as equal opportunity employers. Upon receipt of such request, the Contractor shall replace its employee with another qualified employee and shall provide a permanent replacement within a reasonable period. All temporary and permanent replacement employees of the Contractor shall be selected in accordance with the foregoing provisions of this Agreement. However, the power to hire and terminate personnel shall at all times reside with the Contractor.
- f. The Contractor shall conduct drug screenings (pre-hire, random and for cause) and background checks on personnel assigned to perform services under this Agreement which shall include a criminal and exclusions list (debarment from participation in any federally funded healthcare program such as Medicare and Medicaid) screening to the extent permitted by law. To the extent that additional pre-employment testing or screening is requested by the Village or required by law, the Contractor will be solely responsible for implementing such pre-employment screening, and employment term screening, and will assemble all other required documentation for each applicant or employee, with a corresponding adjustment in the fee. Additional tests and/or documentation may be required for certain assignments. The Contractor shall furnish a true and correct copy of the results of the tests, screens, and all other required documentation, if requested, to the Village. The Contractor warrants that it has or will lawfully obtain all such tests, screens and other documentation and that it is authorized to furnish it under the terms of this Agreement.
- g. Contractor's Firefighter Paramedics shall have pre-employment and annual physicals in compliance with NFPA 1582, Standard on

Comprehensive Occupational Medical Program for Fire Departments. All Paramedic/Firefighters must be fit for duty and Contractor shall certify as such in writing to Village. If a contract Firefighter Paramedic is not Fit for Duty, the Contractor shall immediately fill that person's shift with another Firefighter Paramedic meeting all of the required qualifications.

- h. The Contractor shall solely be responsible for recruiting, interviewing, testing, performing background checks, drug screenings, selecting, hiring, disciplining, controlling, directing and terminating the personnel that it furnishes pursuant to this Agreement.

#### **ARTICLE 7: Duties.**

In order to ensure the orderly and safe operation of fire protection and emergency medical services pursuant to this Agreement and consistent with all licensing and legal authority, the duties of the Contractor's personnel shall be as follows:

- a. The Contractor's regular and replacement personnel assigned to Village shall perform firefighting and or EMS duties and any related operational matters as assigned by Contractor in consultation with the Fire Chief and/or his/her designee. All regular and replacement personnel serve under the supervision of the Contractor in consultation with the Fire Chief or his designee through the Contractor's Operations Manager. Operational matters exclude employment and disciplinary related matters which shall be under the purview of the Contractor; personnel shall report to the Contractor for all employment and disciplinary related matters.
- b. The Contractor shall maintain training and certification records for the Contractor's employees assigned to the Client.
- c. In addition to regularly assigned paramedic and firefighting services, the Contractor's personnel shall perform other services at no additional cost to the Village, as reasonably directed by the Fire Chief.

#### **ARTICLE 8: Consideration.**

In consideration for the services to be provided by the Contractor to the Village pursuant to the provisions of this Agreement, the Village shall pay the Contractor the total sum of \$1,096,042.00 in Year One (1). This sum shall be paid in twelve equal monthly payments of \$91,336.83 due and owing on the 15th of the month. Subsequent payments shall be due on the fifteenth day of each month in the first

year of this Agreement.

In consideration for the services to be provided by the Contractor to the Village pursuant to the provisions of this Agreement, the Village shall pay the Contractor the total sum of \$1,123,443.00 in Year Two (2). This sum shall be paid in twelve equal monthly payments of \$93,620.25 due and owing on the 15th of the month. Subsequent payments shall be due on the fifteenth day of each month in the first year of this Agreement.

In consideration for the services to be provided by the Contractor to the Village pursuant to the provisions of this Agreement, the Village shall pay the Contractor the total sum of \$1,151,129.00 in the optional one-year renewal for Year Three (3). This sum shall be paid in twelve equal monthly payments of \$95,927.41 due and owing on the 15th of the month. Subsequent payments shall be due on the fifteenth day of each month in the first year of this Agreement.

In consideration for the services to be provided by the Contractor to the Village pursuant to the provisions of this Agreement, the Village shall pay the Contractor the total sum of \$1,180,317.00 in the optional one-year renewal for Year Four (4). This sum shall be paid in twelve equal monthly payments of \$98,359.75 due and owing on the 15th of the month. Subsequent payments shall be due on the fifteenth day of each month in the first year of this Agreement.

In consideration for the services to be provided by the Contractor to the Village pursuant to the provisions of this Agreement, the Village shall pay the Contractor the total sum of \$1,209,825.00 in the optional one-year renewal for Year Five (5). This sum shall be paid in twelve equal monthly payments of \$100,818.75 due and owing on the 15th of the month. Subsequent payments shall be due on the fifteenth day of each month in the first year of this Agreement.

If the Village requests Contractor to provide three (3) additional Firefighter/Paramedics, In consideration for the additional personnel to be provided by the Contractor to the Village pursuant to the provisions of this Agreement, the Village shall pay the Contractor the additional sum(s) in twelve equal monthly payments due and owing on the 15th of the month. Subsequent payments shall be due on the fifteenth day of each month for Years 1-2 and Optional Years 3-5 of this Agreement as follows:

Year 1: \$273,374.00 annually via \$22,781.16 monthly payments  
 Year 2: \$280,209.00 annually via \$23,350.75 monthly payments  
 Year 3 (Optional): \$287,214.00 annually via \$23,934.50 monthly payments  
 Year 4 (Optional): \$294,394.00 annually via \$24,532.83 monthly payments  
 Year 5 (Optional): \$301,754.00 annually via \$25,146.16 monthly payments

In the event that the Village requests that the Contractor assign additional firefighter/paramedic personnel to the Village for special events or additional hours, or that the Village requests assigned firefighter/personnel to work hours in excess of those specified in this Agreement for special events or for other reasons, the Village shall pay the Contractor the hourly rate reflected in the below chart. Requests for additional personnel assigned to the Village shall be made in writing to Contractor by Village. The Contractor shall issue an invoice for excess personnel or excess personnel hours, and the Village agrees to pay any such invoice within thirty (30) days following receipt thereof.

<b>HOURLY PRICING:</b>	Year 1	Year 2	Year 3	Year 4	Year 5
<b>Contract Coordinator Non-shift time</b>	\$36.34	\$37.25	\$38.18	\$39.14	\$40.12
<b>Assistant Contract Coordinator Non-shift time</b>	\$31.86	\$32.66	\$33.47	\$34.31	\$35.17
<b>Additional Special Event Paramedics</b>	\$29.07	\$29.80	\$30.54	\$31.31	\$32.09
<b>Additional Special Event EMT-Bs</b>	\$29.07	\$29.80	\$30.54	\$31.31	\$32.09

If turnover is excessive the Contractor will be required to pay the Village a percentage of the annual cost as a penalty; and if the Contractor retains a high percentage of paramedics the Village will pay to the Contractor a percentage of the annual cost as an incentive. Incentives and penalties are capped at a maximum of 2% of the annual cost. The table below outlines the incentives/penalties assuming twelve (12) Contract Firefighter/Paramedics. If the number of Firefighter/Paramedics were to change the incentives/penalties would be adjusted proportionally.

	<b>12 CONTRACT PARAMEDICS</b>	
<b>Annual Turnover (# Paramedics)</b>	<b>Incentive Paid to Contractor</b>	<b>Penalty Paid to the Village</b>
0	2.0%	0
1	1.5%	0
2	1.0%	0
3	0.5%	0
4	0	0
5	0	0
6	0	0
7	0	0.5%
8	0	1.0%
9	0	1.5%
10 or more	0	2.0%

If compensation or benefits to assigned personnel should vary during the term of this Agreement due to local, state or federal law change (including but not limited to minimum wage increases, paid sick leave and/or mandatory scheduling requirements), the Parties agree to renegotiate, in good faith, to cover the Contractor's costs of labor plus a reasonable administrative fee for such additional personnel or required compensation or benefits.

- a. The Contractor shall be solely responsible for:
  - i. Compensating and providing the employment benefits set forth in this Agreement, if any, to such personnel;
  - ii. Making all required deductions from compensation paid to the personnel and timely remitting such deductions and any required contributions from the Contractor to the appropriate government

agency as required by law;

- iii. Complying with all applicable federal, state and local laws and regulations regarding the employment of such personnel.
- iv. The Contractor will properly and timely file all required reports and other information with the Internal Revenue Service, Social Security Administration, and all applicable state and local tax agencies.
- v. The Contractor's personnel and employees shall not be entitled to participate in any of the Village's employee benefit plans, including, but not limited to, pension, 401(k), profit sharing, retirement plan, deferred compensation, welfare, insurance, disability, bonus, vacation pay, severance pay, and other similar plans, programs and agreements, whether reduced to writing or not.
- vi. The Contractor will use its best efforts to ensure that each personnel assigned to the Assignment will be at least 21 years of age and either a United States citizen or an individual lawfully entitled to perform work pursuant to this Agreement. The Contractor shall be solely responsible for any audits, fines or other penalties resulting from its failure to fulfill the obligations of this paragraph and shall defend, protect, and hold harmless the Village, to the extent permitted by law, from such audits, fines or penalties described above.
- vii. The Contractor represents and warrants that the rates described in this Agreement are set in advance, reflective of fair market value for the services rendered and do not take into account the volume or value of referrals that may occur between the Parties.
- viii. The Village will promptly advise the Contractor in writing of any billing dispute or any other problem. The Village and the Contractor shall identify and attempt to promptly resolve all billing disputes through face-to-face meetings between the Village's Fire Chief and the Contractor's manager in charge of this account. If the Parties are unable to resolve the dispute through face-to-face meetings, the Parties agree to submit the dispute to a mediator agreed upon by the Parties or in accordance with the rules of the JAMS, with each Party bearing half of the mediation costs. The Client will pay the undisputed portion of billable transactions or give the Village a credit if one is determined as a result of the mediation.
- ix. The Contractor and the Village will promptly furnish to the other Party such information that such other Party may request each of them to analyze the services and the activities of the other Party and the personnel involved in the dispute.

## **ARTICLE 9: Limitation of Authority.**

The Contractor and its employees shall have the authority to provide services under this Agreement, make and implement day-to-day decisions that are necessary in the performance of its obligations herein, and render directions to all third parties in connection therewith. Notwithstanding anything contained herein to the contrary, in no event shall either Party have the right or authority, express or implied, to commit, bind or obligate the other Party contractually or otherwise to any liability or agreement or to cause the other Party to incur any obligation to any third party.

## **ARTICLE 10: Equipment Uniforms and Facilities.**

In order to ensure the orderly and safe operation of Village's fire protection and emergency medical services and consistent with all licensing and legal authority, the Village shall supply for all regular and replacement personnel, uniforms and a complete set of bunker gear, including SCBA masks for personnel protection for employees working in hazardous areas or conditions. The bunker gear shall meet the minimum requirements of NFPA and OSHA/IDOL. The Contractor's personnel will be responsible for operating and working with the equipment provided by the Village in a safe and careful manner. The Village shall be responsible for all repairs, insurance, maintenance and any other direct or indirect costs of such equipment. The Village shall be solely responsible to provide the Contractor's employees with lockers, beds and use of the Village's facilities while on duty so that the Contractor's employees shall have ready access to the firefighting and emergency medical services equipment required to be performed pursuant to this Agreement. The facilities and all direct or indirect costs thereof shall not be a separate charge incurred by the Contractor under this Agreement, has been taken into account by Contractor in setting forth the consideration set forth in Article 8.

## **ARTICLE 11: Insurance.**

The Contractor shall provide:

- a. **Workers Compensation Insurance.** The Contractor shall purchase, and upon request shall provide evidence that it has secured workers' compensation insurance for its employees in amounts required by Illinois law.
- b. **Professional Liability Insurance.** The Contractor shall purchase, maintain and upon request shall provide evidence that it has secured comprehensive professional liability insurance with a single limit of One Million Dollars and No Cents (\$1,000,000.00) per occurrence, and aggregate coverage of at least Ten Million Dollars and No Cents (\$10,000,000.00).



- c. **Non-Owned, Owned and Hired Automobile Insurance.** The Contractor shall purchase, maintain and upon request shall provide evidence that they have secured, coverage for the Contractor and the Contractor's employees for occurrences arising while the Contractor's employees are driving the Village's vehicles, with a minimum single limit of One Million Dollars and No Cents (\$1,000,000.00 ), and additional aggregate coverage of at least Five Million Dollars and No Cents (\$5,000,000.00). The Contractor shall not be required to procure and maintain business auto physical damage, collision, and underinsured and uninsured vehicle coverage on vehicles, accessories, and equipment owned by the Village and operated by the Contractor's employees.
- d. **Comprehensive General Liability Insurance.** The Contractor shall maintain, and upon request shall produce evidence that it has comprehensive general liability insurance, or equivalent coverage, affording the following: Contractor's insurance, including contractual liability and errors and omissions insurance, which shall include employment-related practices, products and complete operations insurance, bodily injury, property damage and personal injury insurance, with a minimum of One Million Dollars and No Cents (\$1,000,000.00) combined single limit of liability for all underlying coverage. With an "umbrella" or excess insurance coverage on a following form basis to the underlying coverage of a minimum of Ten Million Dollars and No Cents (\$10,000,000.00). Contractor may purchase a single excess policy for both CGL and professional liability coverage.
- e. **Crime Insurance.** The Contractor shall provide Blanket Crime coverage that covers it employees against dishonesty, robbery, burglary, theft, destruction, disappearance as well as other related crime risks to clients/patient property with limits no less than Five Hundred Thousand Dollars and No Cents (\$500,000.00).
- f. **Health Insurance.** Contractor shall purchase, and upon request shall provide evidence that it has secured, medical insurance for its employees
- g. **Contractor's Insurance.** In the event that any claim or suit is brought against the Village and the claim is directly attributable to the fault/negligence of the Contractor's employees, the Contractor's insurance shall be primary and shall defend and indemnify the Village from the claim.
- h. **Village's Insurance.** In the event that any claim or suit is brought against the Contractor and the claim is directly attributable to the fault/negligence of the Village's employees, the Village's insurance shall be primary and will defend and indemnify the Contractor from the claim.

- i. **The Village as Additional Insured.** The Contractor shall name the Village, and its officers, agents and employees as additional insureds on all applicable insurance policies. All applicable insurance policies shall contain a provision requiring sixty (60) day advance notice to the Village in the event of cancellation. Before the Contractor commences services hereunder, a copy of the Contractor's insurance policy or policies evidencing compliance with the provisions hereof shall be provided to the Village.
- j. **The Contractor as Additional Insured.** The Village shall name the Contractor, and its officers, agents and employees as additional insureds on all applicable insurance policies. All applicable insurance policies shall contain a provision requiring sixty (60) day advance notice to the Contractor in the event of cancellation. Before services commence hereunder, a copy of the Village's insurance policies evidencing compliance with the provisions hereof shall be provided to the Village.
- k. **Coverage Not to Be Changed By Sale of Contractor.** In the event that a controlling interest of the Contractor's business is sold or transferred, the insurance coverage described in this Agreement shall not in any way be materially changed.
- l. **Notice of Change in Coverage or Cancellation.** The Contractor shall notify the Village within forty eight (48) hours of being notified of any change in coverage limits or status of its insurance policies. The Contractor's election to provide any coverage required by this Agreement through a plan of self-insurance shall be considered a material change and default of this Agreement unless the Village, in its sole discretion, approves such a plan.

At all times during the term of the Agreement, and throughout any renewal periods, the Contractor will maintain insurance coverage. The Village shall be designated as an additional insured on all applicable policies. All insurance will be furnished by an insurance carrier appropriately licensed to write such policies.

## **ARTICLE 12: Administration.**

- a. The Village shall be responsible for processing all reports, as required under federal, state, resource hospital, or local rules and regulations. The Contractor will cooperate fully in processing such forms.
- b. If this Agreement or any provision or report prepared in accordance with this Agreement is subject to or requested by any governmental agency, the Contractor shall have primary responsibility for complying with such request and shall truthfully respond to all agency requests, with notice to the Village, to the extent such notice

is permitted by law or the applicable agency, and the Contractor shall preserve such books and records for the legally required time period.

- c. The Contractor shall keep adequate original records at the Contractor's principal place of business to allow the Village and its agents to obtain information regarding the personnel furnished and services rendered under this Agreement. This provision shall survive the termination of this Agreement. The Contractor shall maintain the records pertaining to the services rendered upon the behalf of the Village during the term of this Agreement and for a period of not less than seven (7) years following any termination.

### **ARTICLE 13: Relationship of the Parties.**

- a. Notwithstanding anything to the contrary in this Agreement or elsewhere, the Contractor is an independent contractor with respect to the Village. There is no agency, employment relationship, partnership, or joint venture between the Contractor, its employees, and the Village and/or the Village's employees. No one connected with the Contractor, except in a writing signed by the chief executive of the Contractor, has any authority to make any binding promises or agreements contrary to the foregoing.
- b. The Contractor's employees shall be, for all purposes, bona fide employees of the Contractor and not of the Village. All employment-related costs, benefits and expenses arising out of the relationship between the Village and the Contractor, including, but not limited to wages, state, local and federal taxes, benefits, insurance premiums, and contributions to insurance, pension, or other deferred compensation plans, including Social Security, unemployment insurance and workers' compensation obligations, shall be the sole responsibility of the Contractor. The Contractor's employees shall also be subject to all personnel policies and regulations applicable to the Contractor's employees generally, including time off with or without pay and leaves of absence, including under the Family and Medical Leave Act or any similar state law. It is recognized by the Parties that the provision of emergency medical and firefighting service is inherently dangerous. The Village will use its best efforts to provide a safe, healthy and non-discriminatory working environment in compliance with all applicable federal, state and local laws, regulations and ordinances. The Contractor and the Village agree that the Contractor is an independent contractor and shall be liable for its own actions. Neither Party, by virtue of this Agreement, shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other Party, except as specifically provided herein.

The Contractor, including its employees, shall not be considered, entitled or eligible to participate in any benefits or privileges given or extended by the Village or be deemed an employee of Village for any purposes, including but not limited to, for purposes of federal or state withholding taxes, FICA taxes, unemployment, workers' compensation and other employer contributions not specifically provided for in this Agreement. The Contractor shall retain the exclusive right to hire, discipline, compensate and terminate its employees pursuant to the Contractor's policies and procedures and consistent with the terms of this Agreement.

#### **ARTICLE 14: Compliance with Law.**

The Parties agree to use their best efforts to adhere to all county, state and federal rules, regulations, codes, ordinances, and charters as they may apply to fire protection and emergency medical services, including but not limited to the following:

- a. **State of Illinois Anti-Discrimination Laws (775 ILCS 5/101/ et. seq.).** In carrying out the performance required under this Agreement, the Parties agree to use their best efforts to comply with all applicable provisions of the Illinois Human Rights Act, and rules and regulations promulgated by the Illinois Department of Human Rights, prohibiting unlawful discrimination in employment. Contractor's deliberate, willful, or repeated failure to comply with all applicable provisions of the Illinois Human Rights Act, as determined by the Illinois Human Rights Commission or a court of competent jurisdiction, including specifically, provisions related to sexual harassment, and applicable rules and regulations promulgated thereunder, may result in a determination that the Contractor is ineligible for future contracts with the Village, and this Agreement may be canceled or voided in whole or in part, provided that the provisions of this Agreement for the termination of this Agreement are followed and the Contractor is given a thirty (30) day period in which to cure any non-compliance or violations, and an opportunity to be heard by the Village Manager before any decision has been made to cancel or void this Agreement and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.
- b. **Drug-free Workplace Act (30 ILCS 580/1, et. seq.).** The Contractor shall comply with all of the provisions of the Drug-free Workplace Act, which are applicable to the Contractor. Knowing or repeated false certifications or violations of the requirements of the Drug-free Workplace Act as determined by the Village Manager may result in sanctions including, but not limited to, termination of this

Agreement.

- c. **Freedom of Information Act (5 ILCS 140/1 et. seq.).** Applications, program reports and other information obtained by the Village pursuant to this Agreement shall be administered in accordance with the Freedom of Information Act. The Village shall give the Contractor at least two (2) calendar days advance written notice of any FOIA requests related to this Agreement and opportunity to review and object to any FOIA requests.
- d. **Educational Loan Default Act (5 ILCS 385/3).** The Contractor certifies that this Agreement is not in violation of the Educational Loan Default Act prohibiting certain contracts with individuals who are in default on an educational loan.
- e. **Americans with Disabilities Act.** As a condition of receiving this Agreement, the Contractor certifies that services and activities provided under this Agreement comply and will continue to comply with The Americans with Disabilities Act (hereinafter "ADA") (42 U.S.C. 12101 et. seq.) and the regulations thereunder (28 CFR 35.130).

The Village shall not require the Contractor to perform any act which is contrary to the aforesaid and the Contractor shall use its best efforts to prohibit its employees from performing any act which violate the aforesaid acts and will take prompt remedial action to rectify or resolve any such violations.

The Parties recognize that this Agreement is at all times subject to applicable federal, state, and local law, including, but not limited to, the Social Security Act and its rules and policies and guidelines issued by the United States Department of Health and Human Services and its agencies such as CMS and the Office of the Inspector General. The Parties intend to comply fully with all applicable federal, state and municipal laws and regulations, including, but not limited to, the Balanced Budget Act of 1997, the Social Security Act, the federal Anti-Kickback Statute, and the federal False Claims Act. This Agreement shall be subject to amendments of such laws and regulations, and to new legislation and regulations. Any provisions of law that invalidate or are otherwise inconsistent with the terms of this Agreement, or that would cause one or both Parties to be in violation of law, shall be deemed to have superseded the terms of this Agreement; provided however, that the Parties shall exercise their best effort to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of law. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either Party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. Additionally, insofar as any terms or conditions of this Agreement are determined by any court or by the OIG to be

contrary to any statutes or regulations, the Parties will promptly and in good faith confer and resolve any issues in order to amend this Agreement so that the performance of this Agreement is consistent with all applicable statutes and regulations. In the event that the Parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, either Party may terminate this Agreement pursuant to Article 3, unless this Agreement would expire earlier by its terms. If either Party becomes aware of any actual or potential violations by the other Party, whether intentional or inadvertent, of any applicable state or federal statutes or regulations, it shall promptly notify the other Party in writing.

Each Party, their respective directors, trustees, officers and employees shall abide by their respective organization's ethical guidelines, including but not limited to guidelines related to gifts, political contributions, the federal Anti-Kickback Act (Section 1128B(b) of the Social Security Act) and the False Claims Act (31 USC 3729) and any amendments thereto.

The Contractor warrants that it is properly licensed to provide the personnel described in this Agreement to the Village under all applicable federal, state, and local laws. The Contractor shall maintain all such licenses and all others as may be required by law during the term of this Agreement and will furnish a copy of each license and license renewal to the Village upon request. For purposes of any defenses or immunities to claims and liabilities to third Parties that the Village and/or its employees may be entitled under applicable laws, the Parties agree that, to the extent permitted by law, the Contractor will be deemed the agent of the Village or standing in the shoes of the Village with respect to such defenses and immunities available to the Village.

#### **ARTICLE 15: Indemnification.**

It is expressly understood and agreed that each Party, to the extent permitted by law, shall in all events defend, indemnify, save, and hold harmless the other, their parents, affiliates, successors and assigns, and their respective present and former agents, officers, volunteers, and employees from any and all claims, liabilities, obligations, debts, charges, settlements or judgments (including attorneys' fees) arising from death, illness, physical injuries or property damage to any third Party or the other Party's present and former agents, officers, volunteers, and employees, including but not limited to any and all employment-related causes of action, attributable to the acts or omissions of the offending Party, its agents, officers, and employees while engaged in the performance of duties under this Agreement provided that no Party shall have any obligation under this Agreement with respect to liabilities caused by the gross negligence, reckless, fraudulent or deliberately dishonest conduct, or intentional misconduct of the other Party seeking indemnification; and in the event that a final determination that such claims or liabilities resulted from such Party's gross negligence, reckless, fraudulent or deliberately dishonest conduct, or intentional misconduct is made by

a court of competent jurisdiction, the indemnified Party shall immediately refund such monies and expenses paid pursuant to this Agreement. Neither Party shall be obligated to indemnify the other Party for any claim or liability: (a) involving a claim by one Party against the other Party; (b) to the extent prohibited by law; (c) to the extent the Party seeking indemnification receives indemnification or insurance coverage from any other source. Provided that a Party is not in breach of its indemnification obligations hereunder, no Party being indemnified shall settle or compromise any claim subject to indemnification hereunder without the consent, of the Party providing such indemnification. Each Party also agrees to indemnify and hold each other harmless for: (a) any settlement or judgment based upon the sole theory of apparent agency arising from the negligent acts or omissions of the other and/or its employees or agents, and (b) any settlement or judgment of an employment discrimination charge or claim arising from one Party's employees committing discriminatory, retaliatory, or harassing acts against the other Party's employees.

Notwithstanding the above paragraph, neither Party shall be liable to the other for indemnification for, and each Party hereby releases the other from, any liability for punitive, exemplary and consequential damages which may be suffered by such Party arising directly or indirectly out of the performance of this Agreement, including but not limited to the loss of use, loss of profits or business interruption (collectively, the "excluded damages"); provided that amounts owed as consideration under this Agreement shall not be deemed excluded damages.

Notwithstanding the foregoing, nothing contained within this Agreement is intended to be a waiver or estoppel of the Contractor, the Village, or its respective insurer's ability to rely upon the limitations, defenses and immunities contained within Illinois law, including, but not limited to Illinois Local Governmental and Governmental Employees Tort Immunity Act or the Emergency Medical Systems Act that may be applicable to the Village or the Contractor. To the extent that indemnification is available and enforceable, the Parties or their respective insurers shall not be liable to indemnify or contribute for an amount greater than the limits of liability for claims established by law. Each Party's obligation to indemnify hereunder is subject to the availability and limits of applicable insurance coverage. Under no circumstances shall either Party be required to indemnify the other for its own negligent or intentional conduct.

This indemnification obligation shall be deemed to be contractual in nature and shall survive any termination of this Agreement.

#### **ARTICLE 16: Payments to Third Parties.**

The Contractor shall not pay any salaries, commissions or fees, or make any payments or rebates to any employee or officer of the Village or any of its affiliates, or to any designee of any employee or officer of the Village or any of its affiliates, or favor any employee or officer of the Village or any of its affiliates, or any designee of

any employee or officer of the Village or any of its affiliates, with gifts or entertainment of significant cost or value, or enter into any business arrangements with any employee or officer of the Village or any of its affiliates, other than as a representative of the Village or any of its affiliates.

Without limiting any provision herein, the Contractor further agrees that the Contractor will not, either directly or indirectly, offer, pay, promise to pay or authorize the payment of money or anything of value to any government official, candidate for office, political party, vendor or other third party in violation of any law, including without limitation the United States' Foreign Corrupt Practices Act, as amended.

#### **ARTICLE 17: Confidentiality.**

Trade secrets and confidential information that may be received by any Party or its employees, directly or indirectly, that are exempt from public disclosure under applicable laws shall remain the property of the disclosing Party and shall be kept confidential by the Party to whom such trade secrets or confidential information was disclosed. Such information shall be utilized only for the purposes of carrying out the services and purposes of this Agreement, and each Party to who such information is disclosed shall cause each of its employees to comply with the foregoing. Upon termination of this Agreement, each Party agrees to surrender to the disclosing Party any and all trade secrets, confidential information, material or tangible items or written information supplied by the disclosing Party. The obligations of this Article will survive the termination or expiration of this Agreement.

#### **ARTICLE 18: Publicity.**

The Contractor shall not without the prior written consent of the Village: (a) refer to, identify, or use the name or any trade name or trademark of the Village or any of its employees in any advertising or communications to the public by the Contractor made in any form; (b) make publicity releases, promotional or marketing materials, announcements, customer listings, testimonials, or advertising regarding the Village or any of its employees, this Agreement, the services or any related activities, or (c) take any photographs, video or other recordings of the property of the Village or any of its employees.

#### **ARTICLE 19: Non-Solicitation Agreement.**

The Village agrees not to, directly or indirectly, solicit, or cause or induce on its own behalf or for any third party to solicit, for the purpose of hiring any of the Contractor's employees placed with the Village to perform services for the Village for the duration of this Agreement and for one year after termination of this Agreement; unless mutually agreed by the Contractor and the Village.

All personnel employed by the Contractor, including the twelve (12) personnel regularly assigned to the Westmont contract, shall not be restricted from working



part-time for the Westmont Fire Department. However, there is no implied obligation for the Village of Westmont or the Westmont Fire Department to employ any of the Contractor's employees and there is no implied obligation for Contractor's employee to be employed by the Village of Westmont or the Westmont Fire Department. Other than this potential part-time work for the Fire Department, all Contractor employees remain the sole responsibility of the Contractor.

#### **ARTICLE 20: Force Majeure.**

Neither Party shall be liable for any delay in delivery or nonperformance in whole of its obligations under this Agreement if prevented from doing so by a cause or causes beyond its control, including, without limitations, acts of nature or public enemy, fire, floods, storms, earthquakes, riots, strikes, war, and restraints of government. The suspension of performance shall be of no greater scope and no longer duration than is reasonably required and the non-performing Party shall promptly notify the other Party of such event and use reasonable efforts to remedy its inability to perform.

#### **ARTICLE 21: Counterparts.**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

#### **ARTICLE 22: Notices**

All notices, demands, requests and other communications necessary or desirable to be served under this Agreement shall be in writing and shall be either personally delivered or delivered to the Party or the Party's attorney by (i) email or facsimile transmission, (ii) prepaid same-day or overnight delivery service (such as Federal Express or UPS), with proof of delivery requested, or (iii) United States registered or certified mail, return receipt requested, postage prepaid, in each case addressed as follows:

**Contractor:**

Michael G. Tillman, Vice President  
Metro Paramedic Services, Inc.  
395 West Lake Street  
Elmhurst, Illinois 60126

**Client:**

Village of Westmont  
Attn: Fire Chief Steven Riley  
6015 S. Cass Ave.  
Westmont, IL. 60559

or such other address or addresses or to such other party when any party entitled to receive notice hereunder may designate for itself from time to time in a written notice served upon the other parties hereto in accordance herewith. Any notice sent as hereinabove provided shall be deemed to have been received (i) on the date it is personally delivered, if delivered in person, (ii) on the date it is electronically transmitted if delivered by email or facsimile transmission, (iii) on the first business day after the date it is deposited with the overnight courier service, if delivered by overnight courier service, or (iv) on the third (3<sup>rd</sup>) business day following the postmark date which it bears, if delivered by United States registered or certified mail, return receipt requested, postage prepaid.

#### **ARTICLE 23: Entire Agreement, Amendment, Waiver, and Use of Subcontractors.**

This Agreement contains the entire agreement and understanding between the Parties in regard to the subject matter hereof; it supersedes and replaces all prior agreements, negotiations, and arrangements concerning its subject matter; and this Agreement is not subject to modification, alteration or amendment, except by further written Agreement signed by all Parties. No waiver of any provision shall constitute a waiver of any other provision, nor shall any waiver be deemed continuing unless otherwise expressly so provided in writing by the Party against whom the waiver is asserted. A waiver of right or remedy on any one occasion will not be construed as a bar to or waiver of any such right to remedy on any other occasion. If the consent of either Party is necessary pursuant to the terms of this Agreement, such consent shall not be unreasonably withheld.

The Contractor may use sub-contractors to provide the personnel necessary to its obligations under this Agreement; provided that the Contractor agrees that it will require its sub-contractors and agents to make the same covenants and agreements contained in this Agreement. Subject to the preceding sentence, neither the Contractor nor the Village may assign this Agreement or its obligations without the other Party's prior written consent which shall not be unreasonably withheld, provided that the Contractor may utilize the employees or contractors of third Parties to provide the Village with qualified personnel without obtaining the prior written consent of the Village. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

#### **ARTICLE 24: Governing Law.**

This Agreement and the Parties' relationship shall be construed in accordance with, and governed by the laws of the State of Illinois without regard to applicable conflict of law principles. In the event of any dispute between the Parties, the

prevailing Party shall be entitled to its reasonable attorney fees and costs. All disputes relating to or arising out of this Agreement or the Parties' relationship shall be resolved exclusively in the Circuit Court of Du Page County, Illinois, and the Parties hereby waive all objections to personal jurisdiction, venue, or forum non-conveniens therein.

#### **ARTICLE 25: Severability.**

If any portion of this Agreement is determined to be invalid by subsequent passage of law or court interpretation, the court or other tribunal may "blue pencil" or revise said portion so that it is enforceable to the fullest extent permitted by law or, if such revision is deemed impermissible, that portion shall be removed from this Agreement. All other portions of this Agreement shall remain in full force and effect. Should any provision of this Agreement be deemed by either Party to be contrary to the provisions of any law, then the court may revise such provision so that it is enforceable or the Parties agree to attempt in good faith to renegotiate the problematic provision to the mutual satisfaction of the Parties. In the event the Parties are not able to mutually agree on modification of the problematic provision, then either Party may terminate this Agreement upon thirty (30) calendar days written notice to the other Party if the terminating Party has a good faith belief that the problematic provision creates an unfavorable exposure under applicable laws.

#### **ARTICLE 26: Authority.**

The Contractor represents that this Agreement is executed pursuant to approval of its President, and the Village represents that this Agreement is executed pursuant to resolution of its Board of Trustees.

#### **ARTICLE 27: Headings.**

The headings and subheadings in this Agreement are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

#### **ARTICLE 28: HIPAA.**

The Parties agree that any duties undertaken under this Agreement will comply in all material respects with all federal and state-mandated regulations, rules, or orders applicable to the obligations undertaken pursuant to this Agreement, including but not limited to regulations promulgated under Title II Subtitle F of the Health Insurance Portability and Accountability Act (Public Law 104-91) and all subsequent amendments, regulations, and guidance thereto ("HIPAA"). The Parties agree that for purposes of HIPAA, the Contractor's employees and personnel shall be considered workforce members, as that term is defined in 45 CFR 160.103, of the Village and that no business associate agreement is

necessary. Furthermore, the Parties shall amend this Agreement or execute any additional documentation to amend the Agreement to conform with HIPAA or any new or revised legislation, rules, or regulations to which they are subject now or in the future (collectively, "Code") in order to insure that the Parties are at all times in conformance with HIPAA and the Code. If, within thirty (30) days either Party first providing notice to the other of the need to review the Agreement or execute any other document to comply with HIPAA or the Code, the Parties do not reach a mutually agreeable resolution, and such agreement may not be unreasonably withheld, either Party may immediately terminate this Agreement.

#### **ARTICLE 29: ASSIGNMENT.**

This Agreement cannot be assigned or delegated to a third Party by either Party without the prior written consent of the other Party, which shall not be unreasonably withheld, and any attempted assignment without such consent shall be considered null and void; except that either Party may assign this Agreement to a parent, sister, subsidiary or affiliated corporation. Subject to the foregoing limitation, this Agreement shall be binding upon and inure to the benefit of the Parties' successors, assigns, affiliates or other legal representatives.

**IN WITNESS WHEREOF:** the Parties have executed this Agreement to be effective as of the Effective Date.

#### **VILLAGE OF WESTMONT**

\_\_\_\_\_  
Mayor Ronald J. Gunter

\_\_\_\_\_  
Date

#### **METRO PARAMEDIC SERVICES, INC.**

\_\_\_\_\_  
Michael G. Tillman, Vice President

\_\_\_\_\_  
Date